

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CHARLES GRIFFIN,

Petitioner(s),

vs.

WARDEN, LEBANON CORRECTIONAL
INSTITUTION,

Respondent(s).

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Case Number: 1:08cv351

Chief Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendation of United States Magistrate Judge Timothy S. Black filed on February 18, 2009 (Doc. 9), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired March 9, 2009, hereby ADOPTS said Report and Recommendation.

Respondent's motion to dismiss (Doc. 7) is **GRANTED**, and petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DISMISSED** with prejudice on the ground that it is barred from review under the applicable one-year statute of limitations set forth in 28 U.S.C. § 2244(d)(A).

A certificate of appealability will not issue with respect to the three grounds for relief alleged in the petition (Doc. 1), as well as the additional claim alleged in petitioner's "traverse" brief (Doc. 8), which this Court has concluded are barred from review on procedural statute of limitations grounds, because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). "jurists of reason" would not find it

debatable whether the Court is correct in its procedural ruling.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting this Report and Recommendation will not be taken in “good faith”, and , therefore, **DENY** petitioner leave to appeal *in forma pauperi* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

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s/Susan J. Dlott

Chief Judge Susan J. Dlott
United States District Court